

Decision 05-12-038 December 15, 2005

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Pacific Bell Telephone Company (U 1001 C), a Corporation, for Authority for Pricing Flexibility and to Increase Recurring Charges for Business Access Lines, Private Branch Exchange (PBX) Basic and Assured Trunks, and Non-Recurring Charges for Business Access Lines, Private Exchange (PBX) Basic Assured Trunks and Direct Inward Dialing (DID) Basic and Assured Trunks.

Application 00-09-061  
(Filed September 27, 2000)

**OPINION GRANTING INTERVENOR COMPENSATION TO  
THE UTILITY REFORM NETWORK FOR SUBSTANTIAL  
CONTRIBUTIONS TO DECISION 05-06-040**

This decision awards The Utility Reform Network (TURN) \$ 40,378.78 in compensation for its substantial contributions to Decision (D.) 05-06-040. This represents a decrease of approximately \$2,100 from the amount requested because of certain reductions to requested hourly rates and corrections of mathematical errors.

**1. Background**

In Application (A.) 00-09-061, SBC California (SBC) sought Commission authorization to raise its basic rates and installation charges for small and medium-sized businesses. TURN filed a protest to the application, arguing that the Commission should reject the application because the rate increases SBC proposed were inconsistent with the New Regulatory Framework (NRF). TURN

also challenged the proposed prices and price ceilings as excessive and unjustified based on costs, revenues or competition. As part of its prehearing conference statement, TURN moved to dismiss the application, in part based on the then-anticipated NRF Review and the reexamination of various unbundled network element (UNE) costs.

The Commission held a prehearing conference on January 24, 2001. There was no subsequent formal activity in this docket. However, after the prehearing conference, TURN's attorneys and expert witnesses devoted time on this matter through late 2001 pursuing discovery and conducting other activities reasonably related to the proceeding.

The Commission never addressed the merits of SBC's proposed price changes for the services covered by this application. Instead, on June 24, 2004, an Administrative Law Judge ruling sought comments on whether the passage of time had eliminated any need to keep the proceeding open. The comments of all active parties generally supported closing the proceeding. D.05-06-040 closed the proceeding on the following basis:

"All the commenting parties, including the applicant, concur that the information that was the basis for this application is stale and that substantial amendment would be required, even if the proceeding were to go forward. It is, therefore, appropriate to close this docket without prejudice to SBC filing a new application, based on current information, and taking account of other factors, both within and outside Commission dockets, that have occurred and bear on the relief originally sought." (D.05-06-040, 2005 Cal. PUC LEXIS 256, \*5.)

D.05-06-040 acknowledged that even though it was dismissing this application because the information underlying it was stale, eligible parties may

request intervenor compensation. (See D.05-06-040, 2005 Cal. PUC LEXIS 256, \*8, Ordering Paragraph 2.)

## **2. Requirements for Awards of Compensation**

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers. (Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.)

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (or in special circumstances, at other appropriate times that we specify). (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor should file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g), 1804(b)(1).)
5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision. (§§ 1802(i), 1803(a).)

6. The claimed fees and costs are reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), and comparable to the market rates paid to others with comparable training and experience (§ 1806). Further, the work for which fees and costs are claimed must be productive (D.98-04-059).

For discussion here, the procedural issues in Items 1-4 above are combined, followed by separate discussions on Items 5-6.

### **3. Procedural Issues**

The prehearing conference in this matter was held on January 24, 2001. TURN filed its timely NOI on February 21, 2001. The Commission did not issue a ruling on the NOI so we rule on those issues here.

Section 1802(b)(1) defines a “customer as: A) a participant representing consumers, customers or subscribers of a utility; B) a representative who has been authorized by a customer; or C) a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small commercial customers. In this case, TURN is a customer because it is an organization authorized by its by-laws to represent the interests of residential customers, as defined in § 1802(b)(1)(C).

TURN timely filed its request for compensation on September 6, 2005, within 60 days of D.05-06-040 being issued.<sup>1</sup>

An intervenor seeking compensation must show that, without undue hardship, it cannot pay the reasonable costs of effective participation in the proceeding. In the case of groups or organizations such as TURN (Paragraph C,

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<sup>1</sup> No party opposes the request.

above), significant financial hardship is demonstrated by showing that the economic interest of individual members is small compared to the overall costs of effective participation. (Pub. Util. Code § 1802(g).)

Pursuant to § 1804(b)(1), a finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding. An Administrative Law Judge (ALJ) can make this finding in a preliminary ruling on the NOI. In its NOI, TURN references a finding of significant financial hardship in a ruling issued by ALJ Barnett in A.00-09-002, dated December 29, 2000. No party has attempted to rebut this presumption. We find that TURN has demonstrated significant financial hardship pursuant to § 1802(g).

In view of the above, we find that TURN has satisfied all the procedural requirements necessary to make its request for compensation.

#### **4. Substantial Contribution**

In evaluating whether a customer made a substantial contribution to a proceeding we look at several things. First, did the ALJ or Commission adopt one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer? (See § 1802(i).) Second, if the customer's contentions or recommendations paralleled those of another party, did the customer's participation materially supplement, complement, or contribute to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision? (See §§ 1802(i) and 1802.5.) As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.<sup>2</sup>

Should the Commission not adopt any of the customer's recommendations, compensation may be awarded if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order. For example, if a customer provided a unique perspective that enriched the Commission's deliberations and the record, the Commission could find that the customer made a substantial contribution.<sup>3</sup> With this guidance in mind, we turn to the claimed contributions TURN made to the proceeding.

In its request for compensation, TURN acknowledges that its contribution to this proceeding cannot be evaluated in the usual way. This is because the Commission did not issue a decision on the application's merits, but dismissed this application without prejudice because the information underlying it was stale and substantial amendment would be required. TURN urges us to follow the lead of decisions such as D.02-08-061 that have awarded compensation to TURN for participation in other proceedings that were rendered moot by

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<sup>2</sup> D.98-04-059, 79 CPUC2d, 628 at 653.

<sup>3</sup> See D.03-12-019, discussing D.89-03-063 (31 CPUC2d 402) (awarding San Luis Obispo Mothers for Peace and Rochelle Becker compensation in the Diablo Canyon Rate Case because their arguments, although ultimately unsuccessful, forced the utility to thoroughly document the safety issues involved).

legislation or other developments connected with the California energy crisis.<sup>4</sup>  
(See also D.04-03-031.)

TURN argues that when an eligible intervenor for compensation acts reasonably throughout the course of its participation in a Commission proceeding, and the unusual outcome of that proceeding is determined by extenuating circumstances that are not attributable to any of the active parties, the Commission should award the eligible intervenors their reasonable compensation. TURN notes that the Commission has broad discretion under § 1802(h) to determine whether an intervenor has substantially assisted the Commission in making its order or decision. TURN asserts that the Commission should also be guided by the legislative intent, expressed in § 1801.3(b), that the Commission should administer the intervenor compensation program so as to encourage the effective and efficient participation of all groups that have a stake in the public utility regulation process. TURN believes that the Commission should exercise this discretion and fulfill the legislative intent by finding that TURN has made a substantial contribution to this proceeding.

In lieu of the typical review, TURN suggests that we weigh several factors in considering whether a substantial contribution has been made. These factors include:

- The circumstances that led to the proceeding's conclusion;

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<sup>4</sup> TURN also cites D.02-03-034, D.02-03-035, D.03-05-029 and D.03-06-065, where TURN states the Commission has consistently awarded TURN intervenor compensation when the proceeding ended without a final decision on the merits due to facts beyond any party's control.

- The appropriateness of the intervenor's participation in the underlying proceeding;
- The reasonableness of the intervenor's participation in the underlying proceeding; and
- Where available, the intervenor's past record of demonstrating a substantial contribution to Commission decisions on similar subjects.

We have utilized these criteria in the past in granting TURN intervenor compensation under similar circumstances, where the proceeding was dismissed for reasons beyond the parties' control. (See D.02-08-061, 2002 Cal. PUC LEXIS 512; D.04-03-031, 2004 Cal. PUC LEXIS 78.) However, as stated in those decisions, these criteria have not been given a full airing, and we do not adopt them as the appropriate test of substantial contribution in all such proceedings before us. Nonetheless, we find it appropriate to apply them here.

As stated above, the circumstances that led to the proceeding's dismissal without prejudice were that the information that was the basis for the application was stale, and substantial amendment would be required for the proceeding to go forward. These circumstances were not under the control of intervenors or any of the other active parties.

TURN's participation in the underlying proceeding was appropriate in light of what was known at the time. TURN devoted substantial resources in preparing a detailed protest to the application and again in preparing a prehearing conference statement. After the prehearing conference, TURN devoted substantial resources to discovery, until in about October 2001, when questions arose about whether the proceeding would go forward (due to the absence of a scoping memo and the Commission's issuance of Rulemaking (R.) 01-09-001 initiating the next round of NRF review.) Therefore, in October



2001, TURN suspended its own efforts in this proceeding until the Commission indicated that the proceeding would go forward. After that, TURN spent time in responding to the June 2004 ALJ ruling seeking comments on whether to dismiss the application, in drafting comments on the draft decision, and in preparing its request for intervenor compensation. This participation was appropriate given the information TURN knew at various points in the proceeding.

TURN's efforts in this proceeding were reasonable. TURN has a long-established track record before this Commission and has participated as an interested party in other major Commission telecommunications proceedings such as the third NRF review conducted in R.98-03-040, and SBC's directory assistance application, A.98-05-038. Furthermore, TURN's anticipated participation, outlined in its NOI, was thorough and reasonable.

Finally, TURN has a past record of demonstrating a substantial contribution to Commission decisions on similar subjects as this application. Here, SBC asked the Commission to address issues concerning cost-of-service with broader policy issues as to whether the requested relief was appropriate in the communication industry's regulatory framework. TURN's efforts in both of these areas in other proceedings has resulted in determinations from the Commission that TURN has made a substantial contribution. For example, the Commission has found that TURN made a substantial contribution in the NRF review proceedings. The Commission has also found that TURN made a substantial contribution to three decisions issued in A.98-05-038, the Pacific Bell

application seeking directory assistance and other rate increases.<sup>5</sup> Work in these proceedings was similar to the work necessary in this application.

Denying compensation here would be inconsistent with the intent expressed in Pub. Util. Code § 1801.3(b) that the intervenor compensation statutes should “be administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process.” As we stated in D.02-08-061, “we see no reason to increase the intervenor’s [financial] risk [of participation] by denying compensation in a proceeding that is prematurely terminated for reasons that are not reasonably foreseen and are beyond [the intervenor’s] control.” (D.02-08-061, 2002 Cal. PUC LEXIS 512, \*11.) Support for this ruling can also be found in other decisions that have awarded TURN compensation in proceedings that were terminated by events beyond the parties’ control. (See e.g., D.04-03-031; D.03-06-065; D.03-05-029; D.02-03-035; and D.02-03-034.)

In light of the above discussion, we find that TURN has made a substantial contribution to D.05-06-040. After we have determined the scope of a customer’s substantial contribution, we then look at whether the compensation requested is reasonable.

## **5. Reasonableness of Requested Compensation**

TURN requests \$42,488.88 for its participation in this proceeding, as follows:

### Staff Advocate Fees

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<sup>5</sup> D.01-08-010, 2001 Cal. PUC LEXIS 641, awarded TURN intervenor compensation for its work in A.98-05-038, and particularly, for its substantial contributions to D.99-11-051, D.00-03-042, and D.00-11-042.

Paul Stein	31.25 hours @ \$200/hour =	\$ 6,250.00
William Nusbaum	12.75 hours @ \$365/hour=	\$ 4,653.75
Regina Costa	9.75 hours @ \$160/hour=	\$ 1,560.00
	5.0 hours @ \$180/hour=	\$ 900.00
Robert Finkelstein	1.75 hours @ \$395/hour=	\$ 691.25
	10 hours @ 197.50/hour=	\$ 1,975.00
	Subtotal	\$16,030.00

TURN Outside Counsel Fees

Peter Casciato	62.7 hours @ \$325/hour=	\$21,598.35 <sup>6</sup>
Paralegals	14.2 hours @ \$125/hour=	\$ 1,962.50 <sup>7</sup>
Expenses		\$ 433.56
	Subtotal	\$23,994.41 <sup>8</sup>

Expert Witness Costs

Terry Murray	1.25 hours@ \$325=	\$ 406.25
Scott Cratty	7.50 hours @ \$200=	\$ 1,500.00
Elizabeth Kientzle	1 hour @ \$200=	\$ 200.00
	Subtotal	\$ 2,106.25

Other Costs

Photocopying expense		\$ 219.75
Postage costs		\$ 37.29
Overnight delivery (FedEx)		\$ 11.00

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<sup>6</sup> TURN's mathematical computation here is incorrect. The amount requested should be \$20,377.50 (62.7 hours @ \$325 an hour).

<sup>7</sup> TURN's mathematical computation here is incorrect. The amount requested should be \$1775.00 (14.2 hours @ \$125 an hour).

<sup>8</sup> Corrected subtotal for outside council fees is \$22,586.06.

A.00-09-061 ALJ/PSW/tcg

Legal Research (LEXIS)	\$	90.18
Subtotal	\$	358.22
<b>Total</b>		<b>\$42,488.88<sup>9</sup></b>

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<sup>9</sup> Corrected total is \$41,080.53

**A. Hours and Costs Related to and Necessary for Substantial Contribution**

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

TURN's then-staff attorney Paul Stein handled the initial stages of this proceeding. TURN then utilized the services of Peter Casciato as outside counsel. Casciato served as TURN's primary attorney for part of 2000 and all of 2001. Regina Costa, TURN's Telecommunications Research Director, assisted in preparing the protest in TURN's initial work. Additionally, the expert witness firm of Murray and Cratty were engaged and billed less than 10 hours work covering the initial review of the application and related case material, at the very earliest stages of preparing testimony.

When the proceeding became active again in 2004, Casciato spent a small amount of time (1.25 hours) reviewing the ALJ ruling seeking comments regarding dismissal and consulting with TURN on how to proceed. William Nusbaum from TURN's staff then assumed primary responsibility for preparing TURN's comments in response to the 2004 ALJ ruling, with assistance from Costa. Finally, TURN Executive Director Robert Finkelstein prepared comments on the May 2005 draft decision and the request for intervenor compensation.

TURN documented its claimed hours by presenting a daily breakdown of the hours of its attorneys and advocates, accompanied by a brief description of

each activity. The daily breakdown reasonably supports the request for the type of work performed and for the total hours worked.<sup>10</sup>

## **B. Market Rate Standard**

We next take into consideration whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. In D.05-11-031, we issued guidelines and principles to govern the hourly rates of intervenors' representatives. The principles apply here to a limited extent, as discussed below.

## **C. TURN Staff Advocate Fees**

TURN seeks an hourly rate of \$200 for work performed by Stein in 2000. The Commission has previously approved this rate for work performed by Stein in 2000 in D.01-09-045, and we find this rate reasonable.

TURN seeks an hourly rate of \$365 for work performed by Nusbaum in 2004. The Commission has previously approved this rate for work performed by Nusbaum in 2004 in D.05-04-014, and we find this rate reasonable.

TURN seeks an hourly rate of \$160 for work performed by Costa in 2000 and \$180 for work she performed in 2001. The Commission has previously approved these rates for work performed by Costa in 2000 (D.01-08-011) and in 2001 (D.02-04-013), and we find these rates reasonable.

TURN seeks an hourly rate of \$395 for work performed by Finkelstein in 2005. The Commission has previously approved this rate for work performed by

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<sup>10</sup> TURN separated the hours associated with travel and preparation of this compensation request and requests compensation at half the usual hourly rate for this time.

Finkelstein in 2004 in D.05-03-016, and we find this rate reasonable for his 2005 work.

#### **D. Outside Counsel - Casciato**

TURN seeks an hourly rate of \$325 for work performed by Casciato, TURN's outside counsel in this proceeding in 2001 and 2004. This is the rate Casciato billed TURN for his work in this proceeding.

Casciato is a 1974 graduate of Stanford University and obtained his J.D. from Boston University in 1978. He served as a staff attorney for the Broadcast Bureau and General Counsel's office of the Federal Communications Commission from 1978 through 1982. Casciato was General Counsel for the Financial News Network, Inc. from 1983 through 1985. He then went into private practice primarily focusing on representing clients before the Federal Communications Commission and the California Public Utilities Commission.

In 2001, Casciato had over 20 years of experience in telecommunications industry regulation and more than 15 years of private practice representing clients in this industry. The Commission has found an hourly rate of \$310 reasonable for Finkelstein in 2001,<sup>11</sup> and Finkelstein was a 1985 law school graduate who first dealt with these regulatory issues when he joined TURN in 1992. Tom Long, also a 1985 law school graduate but with more years of legal experience with regulatory matters than Finkelstein, had an approved hourly rate at the Commission of \$300 in 2000.<sup>12</sup> Casciato has an additional seven years of legal experience in the telecommunications field. We, therefore, find the

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<sup>11</sup> See D.05-04-049.

<sup>12</sup> See D.02-07-030.

requested hourly rate of \$325 reasonable for work performed by Casciato in 2001 and 2004.

Casciato relied on paralegals to assist him, and billed TURN \$125 an hour for 14.2 hours of paralegal work. TURN states that the Commission awarded compensation at \$100 an hour for work performed by a “permanent law clerk” in D.00-02-044 for work performed in mid-1998. TURN argues that escalating this figure 8% would yield a reasonable hourly rate of \$125 for work performed in 2001.

TURN’s citation above is to a permanent law clerk who drafted the request for intervenor compensation. Here, TURN requests compensation for paralegals but does not describe their experience level. In D.03-01-075, 2003 Cal. PUC LEXIS 58, \*\* 18-19, the Commission compensated Disability Rights Advocates (DRA) \$85 an hour for paralegals and summer associates for work performed in 2001, when DRA failed to provide a description or qualification of these paralegals’ experience. A similar hourly rate is reasonable in this case, and we reduce TURN’s request accordingly.

#### **E. Murray and Cratty**

In 2001, TURN engaged the services of three experts from the telecommunications consultant firm of Murray and Cratty for approximately 10 hours of total work on this proceeding. TURN seeks an hourly rate of \$325 for Terry Murray, and \$200 each for Scott Cratty and Elizabeth Kientzle.

The Commission last authorized hourly rates for Murray (\$300), Cratty (\$175) and Kientzle (\$180) in D.01-08-010 and D.01-07-020, for work performed in 1998-2000. In D.05-11-031, the Commission issued guidelines for calculating intervenor hourly rates for work performed in 2005. These guidelines deem an annual increase of 3% reasonable for those intervenors whose last



authorized rate was for work performed prior to 2004. Although D.05-11-031 applies to work performed in 2005, we will use the 3%/year guideline here and increase Murray's 1999 rate of \$300 to \$320, Cratty's 1999 rate of \$175 to \$185, and Kientzle's 2000 rate of \$180 to \$185, and adjust TURN's request accordingly.

#### **F. Productivity**

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request.

Here, given the circumstances, productivity is impossible to determine, because there is no Commission decision on the underlying merits of the application, or on any other matter of dispute in the application. Rather, the application was dismissed because it was stale and substantial information would be required to update it. In such circumstances, where no party is at fault for the dismissal, we do not reduce TURN's monetary award for failing to demonstrate productivity.

#### **G. Direct Expenses**

The itemized direct expenses submitted by TURN include costs for photocopying, postage, overnight delivery, and legal research (LEXIS) which total \$358.22 for TURN, and \$433.56 for Casciato. The cost breakdown included with the request shows the miscellaneous expenses to be commensurate with the work performed. We find these costs reasonable.

## 6. Award

As set forth in the table below, we award TURN \$40,378.78.

### Staff Advocate Fees

Paul Stein	31.25 hours @ \$200/hour =	\$ 6,250.00
William Nusbaum	12.75 hours @ \$365/hour =	\$ 4,653.75
Regina Costa	9.75 hours @ \$160/hour =	\$ 1,560.00
	5.0 hours @ \$180/hour =	\$ 900.00
Robert Finkelstein	1.75 hours @ \$395/hour =	\$ 691.25
	10 hours @ 197.50/hour =	\$ 1,975.00
	Subtotal	\$16,030.00

### TURN Outside Counsel Fees

Peter Casciato	62.7 hours @ \$325/hour =	\$20,377.50
Paralegals	14.2 hours @ \$ 85/hour =	\$ 1,207.00
Expenses		\$ 433.56
	Subtotal	\$22,018.06

### Expert Witness Costs

Terry Murray	1.25 hours @ \$320 =	\$ 400.00
Scott Cratty	7.50 hours @ \$185 =	\$ 1,387.50
Elizabeth Kientzle	1 hour @ \$185 =	\$ 185.00
	Subtotal	\$ 1,972.50

Other Costs

Photocopying expense	\$	219.75
Postage costs	\$	37.29
Overnight delivery (FedEx)	\$	11.00
Legal Research (LEXIS)	\$	90.18
Subtotal	\$	358.22
<b>Total</b>		<b>\$40,378.78</b>

Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on November 20, 2005, the 75th day after TURN filed its compensation request, and continuing until full payment of the award is made.

The award is to be paid by SBC California as the regulated entity in this proceeding.

We remind all intervenors that Commission staff may audit their records related to this award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. TURN's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

## **7. Waiver of Comment Period**

This is an uncontested intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

## **8. Assignment of Proceeding**

Susan P. Kennedy is the Assigned Commissioner and Philip S. Weismehl is the assigned ALJ in this proceeding.

## **Findings of Fact**

1. TURN is a customer as defined by Pub. Util. Code § 1802(b)(1) because it is an organization authorized by its by-laws to represent the interests of residential customers.
2. TURN has made the requisite showing of significant financial hardship in order to receive intervenor compensation as described herein.
3. TURN made a substantial contribution to D.05-06-040 as described herein.
4. TURN's requested hourly rates for attorneys and experts that, as adjusted herein, are reasonable when compared to the market rates for persons with similar training and experience.
5. The total of the reasonable compensation is \$40,378.78.
6. The appendix to this opinion summarizes today's award.

## **Conclusions of Law**

1. TURN has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed compensation, as adjusted herein, incurred in making substantial contributions to D.05-06-040.
2. TURN should be awarded \$40,378.78 for its contribution to D.05-06-040.
3. Per Rule 77.7(f)(6), the comment period for this compensation decision may be waived.
4. This order should be effective today so that TURN may be compensated without further delay.

**O R D E R**

**IT IS ORDERED** that:

1. The Utility Reform Network (TURN) is awarded \$ 40,378.78 as compensation for its substantial contributions to Decision 05-06-040.
2. Within 30 days of the effective date of this decision, SBC California shall pay TURN the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning November 20, 2005, the 75<sup>th</sup> day after the filing date of TURN's request for compensation, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. Application 00-09-061 is closed.

This order is effective today.

Dated December 15, 2005, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
DIAN M. GRUENEICH  
JOHN A. BOHN  
Commissioners

### Compensation Decision Summary Information

<b>Compensation Decision:</b>	D0512038	<b>Modifies Decision?</b>
<b>Contribution Decision(s):</b>	D0506040	
<b>Proceeding(s):</b>	A0009061	
<b>Author:</b>	ALJ Weismehl	
<b>Payer(s):</b>	SBC California	

### Intervenor Information

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
The Utility Reform Network	9/6/05	\$42,488.88	\$40,378.78	No	Failure to justify hourly rates; arithmetic errors.

### Advocate Information

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Paul	Stein	Attorney	The Utility Reform Network	\$200	2000	\$200
William	Nusbaum	Attorney	The Utility Reform Network	\$365	2004	\$365
Regina	Costa	Policy Expert	The Utility Reform Network	\$160	2000	\$160
Regina	Costa	Policy Expert	The Utility Reform Network	\$180	2001	\$180
Robert	Finkelstein	Attorney	The Utility Reform Network	\$395	2005	\$395

Peter	Casciato	Attorney	The Utility Reform Network	\$325	2001	\$325
Peter	Casciato	Attorney	The Utility Reform Network	\$325	2004	\$325
		Para-legals	The Utility Reform Network	\$125	2001	\$85
Terry	Murray	Economist	The Utility Reform Network	\$325	2001	\$320
Scott	Cratty	Policy Expert	The Utility Reform Network	\$200	2001	\$185
Elizabeth	Kientzle	Policy Expert	The Utility Reform Network	\$200	2001	\$185